

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-240

February 27, 2002

MAINE PUBLIC UTILITIES COMMISSION  
Investigation of Maine Public Service  
Company's Stranded Cost Revenue  
Requirement

ORDER APPROVING  
STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

By way of this Order, we approve a Stipulation entered into between Maine Public Service Company (MPS or Company) and the Office of the Public Advocate (OPA) which establishes a stranded cost revenue requirement for the Company for the period of March 1, 2002 through February 29, 2004. Under the terms of this Stipulation, the Company's distribution delivery rates will stay at current levels on the date that the new revenue requirement goes into effect, March 1, 2002.

**II. PROCEDURAL HISTORY**

See Appendix A.

**III. BACKGROUND**

On March 1, 2000, Maine consumers were provided with the opportunity to purchase generation services from the competitive market and, as of that date, the generation portion of electricity service was no longer subject to rate regulation in Maine. As a part of the Restructuring Act, the Commission was required to determine and permit recovery of each utility's stranded costs, defined to be the "legitimate, verifiable and unmitigable costs made unrecoverable as a result of the restructuring of the electric industry ...." 35-A M.R.S.A. § 3208.

In *Public Utilities Commission, Investigation of Maine Public Service Company's Stranded Costs, Transmission and Distribution Utility Revenue Requirements and Rate Design*, Docket No. 98-577 (MPS's so-called "megacase"), the Commission established transmission and distribution (T&D) rates for MPS which reflected a 2-year stranded cost revenue requirement. The 2-year period, which expires on February 28, 2002, was chosen to coincide with the period of time for which MPS had sold its non-divested generation asset entitlements pursuant to Chapter 307 of the Commission's Rules.

Given the pending expiration of MPS's initial sale of entitlement output, the Commission initiated this case on May 8, 2001. As discussed in Section II, *infra.*, since much of the information needed to decide this case was not available at the time we

initiated it, the schedule was segmented into two phases: Phase I involved the identification of major issues, and Phase II included actual rate recommendations using the results from the Chapter 307 bid sale.

On July 12, 2001, the Company filed its Phase I case in this matter. As part of its filing, the Company proposed to flow-through to ratepayers the refund of premium payments made to the Nuclear Electric Insurance Limited (NEIL). At a technical conference held July 24, 2002, however, the Company indicated that it was reversing its position on the NEIL refund and proposing that it be allowed to retain the full amount of the refund for its shareholders. As part of its filing, the Company also proposed that it be allowed to recover in rates over eight years \$1.7 million in uncollected revenue resulting from discounts given to two large industrial customers (Huber and McCain Foods). According to the Company, the Commission had approved these deferrals in its "Mega-Case," Docket No. 98-577. The Company projected that its sales would increase by .5% during each of the next two years. The Company estimated that no overall change in its stranded cost revenue requirement from the level set by the Commission in Docket No. 98-577 would be necessary.

The OPA, the IECG and the Advisory Staff filed comments in response to the Company's filing. These comments identified the following issues for future discussion with the Company, the share of ratepayers' responsibility for certain promotional tariffs; the Company's revised treatment of the NEIL termination payment given ratepayers' historical payment of the mutual insurance type premiums; and the level of O&M expenses estimated by Maine Yankee.

On November 19, 2001, in Docket No. 2001-384, the Commission approved Maine Public Service Company's sale of its purchased power entitlements for a period of two years pursuant to Chapter 307 of the Commission's Rules. The Company submitted its updated stranded cost filing on November 28, 2001, which reflected the actual entitlement sale revenues, as well as updates on the Company's Maine Yankee costs, the proceeds received as a result of its Wyman 4 settlement with Central Maine Power Company, revised estimates of the impact of discounts given to McCain and Huber and updates to its sales forecast to reflect actual sales through September 30, 2001. The Company proposed in this filing that its core T&D rates not change on March 1, 2002 as a result of the resetting of stranded costs.

On December 28, 2001, we received a Stipulation entered into between the Company and the OPA which resolved all of the outstanding issues in this matter.

#### **IV. DESCRIPTION OF THE STIPULATION**

The December 28, 2001 Stipulation establishes an annual stranded cost revenue requirement for the period of March 1, 2002 through February 29, 2004 (the rate effective period) of \$11,540,000. The agreed-upon rate effective period coincides with the period of the Company's recent Chapter 307 sale. Stranded cost rates would be based on sales of 524,524 MWh in the first year of the rate effective period and 527,147

mWh in the second year. Based on the agreed-upon revenue requirement and level of sales, the Company's distribution delivery rates will not change on March 1, 2002 and the Company's stranded cost rates will decrease by approximately .5% as of March 1, 2003.

To achieve the revenue requirements and rates proposed in the Stipulation, the parties agreed to amortize the remaining balance of the Company's Asset Sale Gain Account during the first year of the rate effective period and to defer for future collection \$1,292,000 in stranded costs in year 1 and \$4,333,000 in year 2 of the rate effective period. The Company projects that to achieve long-term level stranded cost revenue requirements, it will be necessary to defer additional amounts through 2007, when the Company's contract with Wheelabrator Sherman expires. At that point, the Company's ongoing stranded costs drop significantly, and it will be possible to collect the deferred stranded cost balances without adverse rate impacts.

Regarding Maine Yankee issues raised by the Advisory Staff and the OPA, MPS would retain for its shareholders 15% of the Maine Yankee NEIL terminating refund and flow through to ratepayers, through a reduction in its deferred stranded cost balance, the remaining 85%. In addition, for purposes of calculating the Company's stranded costs, Maine Yankee's total O&M budget for calendar year 2002 was established at \$2 million and \$1.5 million for each of calendar years 2003 and 2004.

As part of the Stipulation, the Company has agreed to absorb \$135,000 in lost revenues associated with several discounted rate programs and various special rate contracts. Since this amount was already in the Company's T&D rates, MPS agreed to record \$135,000 annually as a regulatory liability to be flowed back to ratepayers in the Company's next T&D rate case.

Finally, the parties to the Stipulation agreed to various accounting treatments to be reflected as accounting orders upon the Commission's approval of the Stipulation. Included in the agreed-upon accounting treatments were the carrying costs to be applied to the deferred stranded cost balances; the amortization period for deferrals of lost revenues under special rate contracts previously approved for recovery to the Commission in Docket Nos. 2000-441 and 2000-447; and authority to defer stranded costs in amounts necessary, as discussed above, to maintain the Company's stranded cost revenue requirement at \$11,540,000.

## **V. DECISION**

As we have now stated on numerous occasions, to approve a stipulation the Commission must find that:

1. the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;

2. the process that led to the stipulation was fair to all parties; and
3. the stipulated result is reasonable and not contrary to legislative mandate.

See *central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (ME. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996).

We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets all the above criteria.

The Stipulation before us was entered into between the Company and the OPA. In past cases, we have found that these two entities, representing often opposite views in the ratemaking process, constitute a sufficiently broad spectrum of interests to satisfy the first criterion. See *Public Utilities Commission, Investigation of Stranded Cost Recovery, Transmission and Distribution Utility Revenue Requirements and Rate Design of Bangor Hydro-Electric Company (Phase II)*, Docket No. 99-185, Order Approving Stipulation (Maine Public Service Company) at 3 (Aug. 11, 2000). We note that while the other parties to this matter, the IECG and the IEPM, did not join the Stipulation, they have not objected to it. We are, therefore, satisfied that a broad spectrum of interests are represented by the Stipulation.

Based on the record before us, we believe that the process that led to this Stipulation was fair and open. We therefore find that the second criterion for approval has also been satisfied.

Finally, we conclude that the result of the Stipulation is reasonable, not contrary to legislative mandate and consistent with the public interest. The Stipulation resolves the most controversial revenue requirement issue, the flow-through of the NEIL refund, in a manner which we find reasonable and fair. All other revenue requirement issues are also resolved in a manner which is reasonable and consistent with the public interest. We find the parties efforts, as reflected in the Stipulation, to maintain level stranded cost rates during the next stranded cost rate effective period to be laudable and consistent with the public interest. As we recently noted in *Maine Public Utilities Commission, Investigation of Central Maine Power Company's Stranded Cost Revenue Requirement*, Docket No. 2001-232, Order Approving Stipulation at 9, (Feb. 15, 2002) rate stability remains a significant concern as we go forward with the restructuring process.

Accordingly, we

O R D E R

That the Stipulation entered into between the Maine Public Service Company and the Office of the Public Advocate and submitted to us on December 28, 2001 is hereby approved. A copy of the Stipulation is attached hereto<sup>1</sup> and is incorporated by reference.

Dated at Augusta, Maine, this 27<sup>th</sup> day of February, 2002.

BY ORDER OF THE COMMISSION

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Raymond J. Robichaud  
Assistant Administrative Director

COMMISSIONERS VOTING FOR:

Welch  
Nugent  
Diamond

**THIS DOCUMENT HAS BEEN DESIGNATED FOR PUBLICATION**

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<sup>1</sup>One of the exhibits attached to the Stipulation contains confidential information. We have included a redacted copy of that exhibit with the Stipulation attached to this Order. The original Stipulation with the confidential exhibit will be kept in the Commission files, subject to terms of the Protective Order.

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

## APPENDIX A

On May 8, 2001, the Commission issued a Notice of Investigation initiating this docket. That notice identified the likely issues to be addressed and also provided interested persons with an opportunity to intervene.

Timely petitions to intervene were filed by the Industrial Energy Consumers Group ("IECG") and the Office of the Public Advocate ("OPA"). An oral petition to intervene was made by the Independent Energy Producers of Maine ("IEPM") at the initial case conference held on May 23, 2001. There being no objections and good cause appearing to exist, the above-referenced petitions to intervene were all granted in a Procedural Order dated May 29, 2001.

In addition to the above-referenced petitions to intervene, the Commission received requests from Central Maine Power Company ("CMP") and from Bangor Gas Company, LLC ("Bangor Gas") that they be added to the service list in this case as interested persons and receive copies of all filings. These requests were granted without objection subject to the terms set forth in a procedural order issued in Docket No. 2001-232 on May 29, 2001.

A teleconference to discuss scheduling was held on June 5, 2001. Based on the discussions at the conference, a schedule governing the first two phases of the case was established. As set forth in a procedural order of June 27, 2001 the Company's Phase I filing was to address:

- 1) Stranded cost class cost allocation methodology;
- 2) A proposal for the treatment of revenue from non-core customers;
- 3) A proposal for an appropriate QF incentive mechanism on a prospective basis;
- 4) A comparison of budgeted nuclear expense figures used in the stranded cost calculations developed in the rate case to actual nuclear expenses;
- 5) MPS's Fall 2000 sales forecast for the three-year period 2001-2003 with a comparison to 2001 actual results;
- 6) A performance-based ratemaking proposal for resetting stranded cost prices and providing proper incentives;
- 7) An update of the ASGA balances including amounts amortized for targeted ASGA uses; and
- 8) Amounts deferred pursuant to the Commission's Order in Docket No. 98-577.

As part of its Phase II filing, the Company was to address:

- 1) QF cost data and volumes;
- 2) If available, the sale of the purchased power entitlements;
- 3) MPS's Fall 2001 sales forecast;
- 4) Current data regarding MPS's nuclear obligations; and

- 5) MPS's approach for rate design using illustrative bid revenue and forecasted billing units.

On July 12, 2001, MPS submitted its Phase I filing, consisting of the prefiled direct testimonies of Larry LaPlante/Paula Sperry and Brent Boyles. Technical conferences on the Company's Phase I case were held on July 24, 2001, and on August 9, 2001. On August 16, 2001, the Advisory Staff, the OPA and the IECG filed comments on the Company's Phase I filing. On September 21, 2001, the Company filed rebuttal comments in response to the Staff and intervenor comments.

Technical and settlement conferences were held on October 18, 2001. Based on the discussions at these conferences, the parties and the Examiner agreed that MPS would submit an updated Phase II filing shortly after the results of Company's Chapter 307 auction process became publicly available. On November 19, 2001, the Commission approved the Company's sale of its purchased power entitlements pursuant to Chapter 307 of the Commission's Rules.

The Company submitted its updated Phase II filing on November 28, 2001. This filing consisted of revised pre-filed testimony from Company witnesses LaPlante/Sperry and Brent Boyles. On December 28, 2001, the Commission received a Stipulation entered into between the Company and the OPA. The other parties to this matter, the IECG and the IEPM, did not object to the Stipulation.